

107TH CONGRESS  
1ST SESSION

# S. 525

To expand trade benefits to certain Andean countries, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 13, 2001

Mr. GRAHAM (for himself, Mr. DEWINE, Mr. HAGEL, Mr. BREAUX, Mr. MCCAIN, Mr. DODD, Mr. THOMPSON, Mr. BIDEN, Mr. NELSON of Nebraska, Mr. KYL, and Mr. NELSON of Florida) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To expand trade benefits to certain Andean countries, and  
for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Andean Trade Pref-  
5       erence Expansion Act”.

6       **SEC. 2. FINDINGS.**

7       Congress makes the following findings:

8               (1) Since the Andean Trade Preference Act was  
9       enacted in 1991, it has had a positive impact on  
10      United States trade with Bolivia, Colombia, Ecua-

1       dor, and Peru. Two-way trade has doubled, with the  
2       United States serving as the leading source of im-  
3       ports and leading export market for each of the An-  
4       dean beneficiary countries. This has resulted in in-  
5       creased jobs and expanded export opportunities in  
6       both the United States and the Andean region.

7           (2) The Andean Trade Preference Act has been  
8       a key element in the United States counternarcotics  
9       strategy in the Andean region, promoting export di-  
10      versification and broad-based economic development  
11      that provides sustainable economic alternatives to  
12      drug-crop production, strengthening the legitimate  
13      economies of Andean countries and creating viable  
14      alternatives to illicit trade in coca.

15          (3) Notwithstanding the success of the Andean  
16      Trade Preference Act, the Andean region remains  
17      threatened by political and economic instability and  
18      fragility, vulnerable to the consequences of the drug  
19      war and fierce global competition for its legitimate  
20      trade.

21          (4) The continuing instability in the Andean re-  
22      gion poses a threat to the security interests of the  
23      United States and the world. This problem has been  
24      partially addressed through foreign aid, such as Plan  
25      Colombia, enacted by Congress in 2000. However,

1 foreign aid alone is not sufficient. Enhancement of  
2 legitimate trade with the United States provides an  
3 alternative means for reviving and stabilizing the  
4 economies in the Andean region.

5 (5) The Andean Trade Preference Act con-  
6 stitutes a tangible commitment by the United States  
7 to the promotion of prosperity, stability, and democ-  
8 racy in the beneficiary countries.

9 (6) Renewal and enhancement of the Andean  
10 Trade Preference Act will bolster the confidence of  
11 domestic private enterprise and foreign investors in  
12 the economic prospects of the region, ensuring that  
13 legitimate private enterprise can be the engine of  
14 economic development and political stability in the  
15 region.

16 (7) Each of the Andean beneficiary countries is  
17 committed to conclude negotiation of a Free Trade  
18 Area of the Americas by the year 2005, as a means  
19 of enhancing the economic security of the region.

20 (8) Temporarily enhancing trade benefits for  
21 Andean beneficiaries countries will promote the  
22 growth of free enterprise and economic opportunity  
23 in these countries and serve the security interests of  
24 the United States, the region, and the world.

1 **SEC. 3. TEMPORARY PROVISIONS.**

2 (a) IN GENERAL.—Section 204(b) of the Andean  
3 Trade Preference Act (19 U.S.C. 3203(b)) is amended to  
4 read as follows:

5 “(b) IMPORT-SENSITIVE ARTICLES.—

6 “(1) IN GENERAL.—Subject to paragraphs (2)  
7 through (5), the duty-free treatment provided under  
8 this title does not apply to—

9 “(A) textile and apparel articles which  
10 were not eligible articles for purposes of this  
11 title on January 1, 1994, as this title was in ef-  
12 fect on that date;

13 “(B) footwear not designated at the time  
14 of the effective date of this title as eligible arti-  
15 cles for the purpose of the generalized system  
16 of preferences under title V of the Trade Act of  
17 1974;

18 “(C) tuna, prepared or preserved in any  
19 manner, in airtight containers;

20 “(D) petroleum, or any product derived  
21 from petroleum, provided for in headings 2709  
22 and 2710 of the HTS;

23 “(E) watches and watch parts (including  
24 cases, bracelets, and straps), of whatever type  
25 including, but not limited to, mechanical, quartz  
26 digital, or quartz analog, if such watches or

1 watch parts contain any material which is the  
 2 product of any country with respect to which  
 3 HTS column 2 rates of duty apply;

4 “(F) articles to which reduced rates of  
 5 duty apply under subsection (c);

6 “(G) sugars, syrups, and molasses classi-  
 7 fied in subheadings 1701.11.03, 1701.12.02,  
 8 1701.99.02, 1702.90.32, 1806.10.42, and  
 9 2106.90.12 of the HTS; or

10 “(H) rum and tafia classified in sub-  
 11 heading 2208.40.00 of the HTS.

12 “(2) TRANSITION PERIOD TREATMENT OF CER-  
 13 TAIN TEXTILE AND APPAREL ARTICLES.—

14 “(A) ARTICLES COVERED.—During the  
 15 transition period, the preferential treatment de-  
 16 scribed in subparagraph (B) shall apply to the  
 17 following articles:

18 “(i) APPAREL ARTICLES ASSEMBLED  
 19 IN ONE OR MORE ATPEA BENEFICIARY  
 20 COUNTRIES.—Apparel articles assembled  
 21 in one or more ATPEA beneficiary coun-  
 22 tries from fabrics wholly formed and cut in  
 23 the United States, from yarns wholly  
 24 formed in the United States, that are—

1 “(I) entered under subheading  
2 9802.00.80 of the HTS; or

3 “(II) entered under chapter 61  
4 or 62 of the HTS, if, after such as-  
5 sembly, the articles would have quali-  
6 fied for entry under subheading  
7 9802.00.80 of the HTS but for the  
8 fact that the articles were embroi-  
9 dered or subjected to stone-washing,  
10 enzyme-washing, acid washing, perma-  
11 pressing, oven-baking, bleaching, gar-  
12 ment-dyeing, screen printing, or other  
13 similar processes.

14 “(ii) APPAREL ARTICLES CUT AND AS-  
15 SEMBLED IN ONE OR MORE ATPEA BENE-  
16 FICIARY COUNTRIES.—Apparel articles cut  
17 in one or more ATPEA beneficiary coun-  
18 tries from fabric wholly formed in the  
19 United States from yarns wholly formed in  
20 the United States, if such articles are as-  
21 sembled in one or more such countries with  
22 thread formed in the United States.

23 “(iii) CERTAIN KNIT-TO-SHAPE AP-  
24 PAREL ARTICLES.—

1           “(I) GENERAL RULE.—Apparel  
2 articles knit-to-shape (other than  
3 socks provided for in heading 6115 of  
4 the HTS) in an ATPEA beneficiary  
5 country from yarns wholly formed in  
6 the United States.

7           “(II) KNIT-TO-SHAPE IN AN  
8 ATPEA BENEFICIARY COUNTRY AND  
9 THE UNITED STATES.—Apparel arti-  
10 cles assembled in an ATPEA bene-  
11 ficiary country from components knit-  
12 to-shape in the United States and  
13 components knit-to-shape in an  
14 ATPEA beneficiary country from  
15 yarns wholly formed in the United  
16 States.

17           “(III) ASSEMBLED IN AN ATPEA  
18 BENEFICIARY COUNTRY.—Apparel ar-  
19 ticles assembled in an ATPEA bene-  
20 ficiary country from components knit-  
21 to-shape in the United States from  
22 yarns wholly formed in the United  
23 States.

24           “(iv) REGIONAL FABRIC.—

“(I) GENERAL RULE.—Knit apparel articles cut and wholly assembled in one or more ATPEA beneficiary countries from fabric formed in one or more ATPEA beneficiary countries from yarns wholly formed in the United States, in an amount not exceeding the amount set forth in subclause (II).

“(II) LIMITATION.—The amount referred to in subclause (I) is 70,000,000 square meter equivalents during the 1-year period beginning on October 1, 2001, increased by 16 percent, compounded annually, in each succeeding 1-year period through September 30, 2005.

“(v) CERTAIN OTHER APPAREL ARTICLES.—

“(I) GENERAL RULE.—Subject to subclause (II), any apparel article classifiable under subheading 6212.10 of the HTS, if the article is both cut and sewn or otherwise assembled in the United States, or one or more of



1 the ATPEA beneficiary countries, or  
2 both.

3 “(II) LIMITATION.—During the  
4 1-year period beginning on October 1,  
5 2002, and during each of the 3 suc-  
6 ceeding 1-year periods, apparel arti-  
7 cles described in subclause (I) of a  
8 producer or an entity controlling pro-  
9 duction shall be eligible for pref-  
10 erential treatment under subpara-  
11 graph (B) only if the aggregate cost  
12 of fabric components formed in the  
13 United States that are used in the  
14 production of all such articles of that  
15 producer or entity during the pre-  
16 ceding 1-year period is at least 75  
17 percent of the aggregate declared cus-  
18 toms value of the fabric contained in  
19 all such articles of that producer or  
20 entity that are entered during the pre-  
21 ceding 1-year period.

22 “(III) DEVELOPMENT OF PROCE-  
23 DURE TO ENSURE COMPLIANCE.—The  
24 United States Customs Service shall  
25 develop and implement methods and

1 procedures to ensure ongoing compli-  
2 ance with the requirement set forth in  
3 subclause (II). If the Customs Service  
4 finds that a producer or an entity  
5 controlling production has not satis-  
6 fied such requirement in a 1-year pe-  
7 riod, then apparel articles described in  
8 subclause (I) of that producer or enti-  
9 ty shall be ineligible for preferential  
10 treatment under subparagraph (B)  
11 during any succeeding 1-year period  
12 until the aggregate cost of fabric com-  
13 ponents formed in the United States  
14 used in the production of such articles  
15 of that producer or entity in the pre-  
16 ceding 1-year period is at least 85  
17 percent of the aggregate declared cus-  
18 toms value of the fabric contained in  
19 all such articles of that producer or  
20 entity that are entered during the pre-  
21 ceding 1-year period.

22 “(vi) APPAREL ARTICLES ASSEMBLED  
23 FROM FABRICS OR YARN NOT WIDELY  
24 AVAILABLE IN COMMERCIAL QUAN-  
25 TITIES.—

1           “(I) GENERAL RULE.—Apparel  
2 articles that are both cut (or knit-to-  
3 shape) and sewn or otherwise assem-  
4 bled in one or more ATPEA bene-  
5 ficiary countries, from fabrics or yarn  
6 that is not formed in the United  
7 States or in one or more ATPEA ben-  
8 eficiary countries, to the extent that  
9 apparel articles of such fabrics or  
10 yarn would be eligible for preferential  
11 treatment, without regard to the  
12 source of the fabrics or yarn, under  
13 Annex 401 of the NAFTA.

14           “(II) ADDITIONAL FABRICS ELI-  
15 GIBLE.—At the request of any inter-  
16 ested party, the President is author-  
17 ized to proclaim additional fabrics and  
18 yarn as eligible for preferential treat-  
19 ment under subclause (I) if—

20                   “(aa) the President deter-  
21 mines that such fabrics or yarn  
22 cannot be supplied by the domes-  
23 tic industry in commercial quan-  
24 tities in a timely manner;

1           “(bb) the President has ob-  
2           tained advice regarding the pro-  
3           posed action from the appro-  
4           priate advisory committee estab-  
5           lished under section 135 of the  
6           Trade Act of 1974 (19 U.S.C.  
7           2155) and the United States  
8           International Trade Commission;

9           “(cc) within 60 days after  
10          the request, the President has  
11          submitted a report to the Com-  
12          mittee on Ways and Means of the  
13          House of Representatives and the  
14          Committee on Finance of the  
15          Senate that sets forth the action  
16          proposed to be proclaimed and  
17          the reasons for such actions, and  
18          the advice obtained under divi-  
19          sion (bb);

20          “(dd) a period of 60 cal-  
21          endar days, beginning with the  
22          first day on which the President  
23          has met the requirements of divi-  
24          sion (cc), has expired; and

1                   “(ee) the President has con-  
 2                   sulted with such committees re-  
 3                   garding the proposed action dur-  
 4                   ing the period referred to in divi-  
 5                   sion (cc).

6                   “(vii)   HANDLOOMED,   HANDMADE,  
 7                   AND           FOLKLORE           ARTICLES.—A  
 8                   handloomed, handmade, or folklore article  
 9                   of an ATPEA beneficiary country identi-  
 10                  fied under subparagraph (C) that is cer-  
 11                  tified as such by the competent authority  
 12                  of such beneficiary country.

13                  “(viii)   APPAREL   ARTICLES   MADE  
 14                  FROM ALPACA, VICUÑA, OR LLAMA.—An  
 15                  apparel article of an ATPEA beneficiary  
 16                  country in chief weight of alpaca, vicuña,  
 17                  or llama.

18                  “(ix) SPECIAL RULES.—

19                       “(I) EXCEPTION FOR FINDINGS  
 20                       AND TRIMMINGS.—(aa) An article oth-  
 21                       erwise eligible for preferential treat-  
 22                       ment under this paragraph shall not  
 23                       be ineligible for such treatment be-  
 24                       cause the article contains findings or  
 25                       trimmings of foreign origin, if such

1 findings and trimmings do not exceed  
2 25 percent of the cost of the compo-  
3 nents of the assembled product. Ex-  
4 amples of findings and trimmings are  
5 sewing thread, hooks and eyes, snaps,  
6 buttons, ‘bow buds’, decorative lace,  
7 trim, elastic strips, zippers, including  
8 zipper tapes and labels, and other  
9 similar products. Elastic strips are  
10 considered findings or trimmings only  
11 if they are each less than 1 inch in  
12 width and are used in the production  
13 of brassieres.

14 “(bb) In the case of an article  
15 described in clause (ii) of this sub-  
16 paragraph, sewing thread shall not be  
17 treated as findings or trimmings  
18 under this subclause.

19 “(II) CERTAIN INTERLININGS.—  
20 (aa) An article otherwise eligible for  
21 preferential treatment under this  
22 paragraph shall not be ineligible for  
23 such treatment because the article  
24 contains certain interlinings of foreign  
25 origin, if the value of such interlinings

1 (and any findings and trimmings)  
2 does not exceed 25 percent of the cost  
3 of the components of the assembled  
4 article.

5 “(bb) Interlinings eligible for the  
6 treatment described in division (aa)  
7 include only a chest type plate, ‘hymo’  
8 piece, or ‘sleeve header’, of woven or  
9 weft-inserted warp knit construction  
10 and of coarse animal hair or man-  
11 made filaments.

12 “(cc) The treatment described in  
13 this subclause shall terminate if the  
14 President makes a determination that  
15 United States manufacturers are pro-  
16 ducing such interlinings in the United  
17 States in commercial quantities.

18 “(III) DE MINIMIS RULE.—An  
19 article that would otherwise be ineli-  
20 gible for preferential treatment under  
21 this paragraph because the article  
22 contains fibers or yarns not wholly  
23 formed in the United States or in one  
24 or more ATPEA beneficiary countries  
25 shall not be ineligible for such treat-

1           ment if the total weight of all such fi-  
2           bers or yarns is not more than 7 per-  
3           cent of the total weight of the good.  
4           Notwithstanding the preceding sen-  
5           tence, an apparel article containing  
6           elastomeric yarns shall be eligible for  
7           preferential treatment under this  
8           paragraph only if such yarns are  
9           wholly formed in the United States.

10           “(IV) SPECIAL ORIGIN RULE.—

11           An article otherwise eligible for pref-  
12           erential treatment under clause (i) or  
13           (ii) of this subparagraph shall not be  
14           ineligible for such treatment because  
15           the article contains nylon filament  
16           yarn (other than elastomeric yarn)  
17           that is classifiable under subheading  
18           5402.10.30, 5402.10.60, 5402.31.30,  
19           5402.31.60, 5402.32.30, 5402.32.60,  
20           5402.41.10, 5402.41.90, 5402.51.00,  
21           or 5402.61.00 of the HTS duty-free  
22           from a country that is a party to an  
23           agreement with the United States es-  
24           tablishing a free trade area, which en-



1           tered into force before January 1,  
2           1995.

3                   “(V)   FABRICS   NOT   FORMED  
4           FROM YARNS.—An article otherwise  
5           eligible for preferential treatment  
6           under clause (i) or (ii) of this sub-  
7           paragraph shall not be ineligible for  
8           such treatment because the article is  
9           assembled in one or more beneficiary  
10          countries from fabrics not formed  
11          from yarns, if such fabrics are classi-  
12          fiable under heading 5602 or 5603 of  
13          the HTS and are wholly formed (or  
14          wholly formed and cut, as the case  
15          may be) in the United States.

16                   “(VI)   CLARIFICATION OF CER-  
17          TAIN KNIT APPAREL ARTICLES.—Not-  
18          withstanding any other provision of  
19          law, an article otherwise eligible for  
20          preferential treatment under clause  
21          (iv)(I) of this subparagraph, shall not  
22          be ineligible for such treatment be-  
23          cause the article, or a component  
24          thereof, contains fabric formed in the

1 United States from yarns wholly  
2 formed in the United States.”.

3 “(x) TEXTILE LUGGAGE.—Textile  
4 luggage—

5 “(I) assembled in an ATPEA  
6 beneficiary country from fabric wholly  
7 formed and cut in the United States,  
8 from yarns wholly formed in the  
9 United States, that is entered under  
10 subheading 9802.00.80 of the HTS;  
11 or

12 “(II) assembled from fabric cut  
13 in an ATPEA beneficiary country  
14 from fabric wholly formed in the  
15 United States from yarns wholly  
16 formed in the United States.

17 “(B) PREFERENTIAL TREATMENT.—Ex-  
18 cept as provided in subparagraph (E), during  
19 the transition period, the articles to which sub-  
20 paragraph (A) applies shall enter the United  
21 States free of duty and free of any quantitative  
22 restrictions, limitations, or consultation levels.

23 “(C) HANDLOOMED, HANDMADE, AND  
24 FOLKLORE ARTICLES.—For purposes of sub-  
25 paragraph (A)(vii), the President shall consult

1 with representatives of the ATPEA beneficiary  
 2 countries concerned for the purpose of identi-  
 3 fying particular textile and apparel goods that  
 4 are mutually agreed upon as being handloomed,  
 5 handmade, or folklore goods of a kind described  
 6 in section 2.3(a), (b), or (c) of the Annex or  
 7 Appendix 3.1.B.11 of the Annex.

8 “(D) PENALTIES FOR TRANS-  
 9 SHIPMENTS.—

10 “(i) PENALTIES FOR EXPORTERS.—If  
 11 the President determines, based on suffi-  
 12 cient evidence, that an exporter has en-  
 13 gaged in transshipment with respect to  
 14 textile or apparel articles from an ATPEA  
 15 beneficiary country, then the President  
 16 shall deny all benefits under this title to  
 17 such exporter, and any successor of such  
 18 exporter, for a period of 2 years.

19 “(ii) PENALTIES FOR COUNTRIES.—  
 20 Whenever the President finds, based on  
 21 sufficient evidence, that transshipment has  
 22 occurred, the President shall request that  
 23 the ATPEA beneficiary country or coun-  
 24 tries through whose territory the trans-  
 25 shipment has occurred take all necessary

1 and appropriate actions to prevent such  
2 transshipment. If the President determines  
3 that a country is not taking such actions,  
4 the President shall reduce the quantities of  
5 textile and apparel articles that may be im-  
6 ported into the United States from such  
7 country by the quantity of the trans-  
8 shipped articles multiplied by 3, to the ex-  
9 tent consistent with the obligations of the  
10 United States under the WTO.

11 “(iii) TRANSSHIPMENT DESCRIBED.—  
12 Transshipment within the meaning of this  
13 subparagraph has occurred when pref-  
14 erential treatment under subparagraph (B)  
15 has been claimed for a textile or apparel  
16 article on the basis of material false infor-  
17 mation concerning the country of origin,  
18 manufacture, processing, or assembly of  
19 the article or any of its components. For  
20 purposes of this clause, false information is  
21 material if disclosure of the true informa-  
22 tion would mean or would have meant that  
23 the article is or was ineligible for pref-  
24 erential treatment under subparagraph  
25 (B).

“(E) BILATERAL EMERGENCY ACTIONS.—

“(i) IN GENERAL.—The President may take bilateral emergency tariff actions of a kind described in section 4 of the Annex with respect to any apparel article imported from an ATPEA beneficiary country if the application of tariff treatment under subparagraph (B) to such article results in conditions that would be cause for the taking of such actions under such section 4 with respect to a like article described in the same 8-digit subheading of the HTS that is imported from Mexico.

“(ii) RULES RELATING TO BILATERAL EMERGENCY ACTION.—For purposes of applying bilateral emergency action under this subparagraph—

“(I) the requirements of paragraph (5) of section 4 of the Annex (relating to providing compensation) shall not apply;

“(II) the term ‘transition period’ in section 4 of the Annex shall have the meaning given that term in paragraph (5)(D) of this subsection; and

1 “(III) the requirements to con-  
 2 sult specified in section 4 of the  
 3 Annex shall be treated as satisfied if  
 4 the President requests consultations  
 5 with the ATPEA beneficiary country  
 6 in question and the country does not  
 7 agree to consult within the time pe-  
 8 riod specified under section 4.

9 “(3) TRANSITION PERIOD TREATMENT OF CER-  
 10 TAIN OTHER ARTICLES ORIGINATING IN BENE-  
 11 FICIARY COUNTRIES.—

12 “(A) EQUIVALENT TARIFF TREATMENT.—

13 “(i) IN GENERAL.—Subject to clause  
 14 (ii), the tariff treatment accorded at any  
 15 time during the transition period to any  
 16 article referred to in any of subparagraphs  
 17 (B) through (H) of paragraph (1) that is  
 18 an ATPEA originating good shall be iden-  
 19 tical to the tariff treatment that is ac-  
 20 corded at such time under Annex 302.2 of  
 21 the NAFTA to an article described in the  
 22 same 8-digit subheading of the HTS that  
 23 is a good of Mexico and is imported into  
 24 the United States.

1 “(ii) EXCEPTION.—Clause (i) does not  
 2 apply to any article accorded duty-free  
 3 treatment under U.S. Note 2(b) to sub-  
 4 chapter II of chapter 98 of the HTS.

5 “(B) RELATIONSHIP TO SUBSECTION (C)  
 6 DUTY REDUCTIONS.—If at any time during the  
 7 transition period the rate of duty that would  
 8 (but for action taken under subparagraph (A)(i)  
 9 in regard to such period) apply with respect to  
 10 any article under subsection (c) is a rate of  
 11 duty that is lower than the rate of duty result-  
 12 ing from such action, then such lower rate of  
 13 duty shall be applied for the purposes of imple-  
 14 menting such action.

15 “(4) CUSTOMS PROCEDURES.—

16 “(A) IN GENERAL.—

17 “(i) REGULATIONS.—Any importer  
 18 that claims preferential treatment under  
 19 paragraph (2) or (3) shall comply with  
 20 customs procedures similar in all material  
 21 respects to the requirements of Article  
 22 502(1) of the NAFTA as implemented  
 23 pursuant to United States law, in accord-  
 24 ance with regulations promulgated by the  
 25 Secretary of the Treasury.

1 “(ii) DETERMINATION.—

2 “(I) IN GENERAL.—In order to  
3 qualify for the preferential treatment  
4 under paragraph (2) or (3) and for a  
5 Certificate of Origin to be valid with  
6 respect to any article for which such  
7 treatment is claimed, there shall be in  
8 effect a determination by the Presi-  
9 dent that each country described in  
10 subclause (II)—

11 “(aa) has implemented and  
12 follows; or

13 “(bb) is making substantial  
14 progress toward implementing  
15 and following,

16 procedures and requirements similar  
17 in all material respects to the relevant  
18 procedures and requirements under  
19 chapter 5 of the NAFTA.

20 “(II) COUNTRY DESCRIBED.—A  
21 country is described in this subclause  
22 if it is an ATPEA beneficiary  
23 country—

24 “(aa) from which the article  
25 is exported; or



1 “(bb) in which materials  
2 used in the production of the ar-  
3 ticle originate or in which the ar-  
4 ticle or such materials undergo  
5 production that contributes to a  
6 claim that the article is eligible  
7 for preferential treatment under  
8 paragraph (2) or (3).

9 “(B) CERTIFICATE OF ORIGIN.—The Cer-  
10 tificate of Origin that otherwise would be re-  
11 quired pursuant to the provisions of subpara-  
12 graph (A) shall not be required in the case of  
13 an article imported under paragraph (2) or (3)  
14 if such Certificate of Origin would not be re-  
15 quired under Article 503 of the NAFTA (as im-  
16 plemented pursuant to United States law), if  
17 the article were imported from Mexico.

18 “(C) REPORT BY USTR ON COOPERATION  
19 OF OTHER COUNTRIES CONCERNING CIR-  
20 CUMVENTION.—The United States Commis-  
21 sioner of Customs shall conduct a study ana-  
22 lyzing the extent to which each ATPEA bene-  
23 ficiary country—

24 “(i) has cooperated fully with the  
25 United States, consistent with its domestic

1 laws and procedures, in instances of cir-  
2 cumvention or alleged circumvention of ex-  
3 isting quotas on imports of textile and ap-  
4 parel goods, to establish necessary relevant  
5 facts in the places of import, export, and,  
6 where applicable, transshipment, including  
7 investigation of circumvention practices,  
8 exchanges of documents, correspondence,  
9 reports, and other relevant information, to  
10 the extent such information is available;

11 “(ii) has taken appropriate measures,  
12 consistent with its domestic laws and pro-  
13 cedures, against exporters and importers  
14 involved in instances of false declaration  
15 concerning fiber content, quantities, de-  
16 scription, classification, or origin of textile  
17 and apparel goods; and

18 “(iii) has penalized the individuals  
19 and entities involved in any such cir-  
20 cumvention, consistent with its domestic  
21 laws and procedures, and has worked  
22 closely to seek the cooperation of any third  
23 country to prevent such circumvention  
24 from taking place in that third country.

1           The Trade Representative shall submit to Con-  
 2           gress, not later than October 1, 2002, a report  
 3           on the study conducted under this subpara-  
 4           graph.

5           “(5) DEFINITIONS AND SPECIAL RULES.—For  
 6           purposes of this subsection—

7                   “(A) ANNEX.—The term ‘the Annex’  
 8                   means Annex 300–B of the NAFTA.

9                   “(B) ATPEA BENEFICIARY COUNTRY.—  
 10           The term ‘ATPEA beneficiary country’ means  
 11           any ‘beneficiary country’, as defined in section  
 12           203(a)(1) of this title, which the President des-  
 13           ignates as an ATPEA beneficiary country, tak-  
 14           ing into account the criteria contained in sub-  
 15           sections (b) and (c) of section 203 and other  
 16           appropriate criteria, including the following:

17                   “(i) Whether the beneficiary country  
 18                   has demonstrated a commitment to—

19                           “(I) undertake its obligations  
 20                           under the WTO, including those  
 21                           agreements listed in section 101(d) of  
 22                           the Uruguay Round Agreements Act,  
 23                           on or ahead of schedule; and

1 “(II) participate in negotiations  
2 toward the completion of the FTAA  
3 or another free trade agreement.

4 “(ii) The extent to which the country  
5 provides protection of intellectual property  
6 rights consistent with or greater than the  
7 protection afforded under the Agreement  
8 on Trade-Related Aspects of Intellectual  
9 Property Rights described in section  
10 101(d)(15) of the Uruguay Round Agree-  
11 ments Act.

12 “(iii) The extent to which the country  
13 provides internationally recognized worker  
14 rights, including—

15 “(I) the right of association;

16 “(II) the right to organize and  
17 bargain collectively;

18 “(III) a prohibition on the use of  
19 any form of forced or compulsory  
20 labor;

21 “(IV) a minimum age for the em-  
22 ployment of children; and

23 “(V) acceptable conditions of  
24 work with respect to minimum wages,

1 hours of work, and occupational safe-  
2 ty and health;

3 “(iv) Whether the country has imple-  
4 mented its commitments to eliminate the  
5 worst forms of child labor, as defined in  
6 section 507(6) of the Trade Act of 1974.

7 “(v) The extent to which the country  
8 has met the counter-narcotics certification  
9 criteria set forth in section 490 of the For-  
10 eign Assistance Act of 1961 (22 U.S.C.  
11 2291j) for eligibility for United States as-  
12 sistance.

13 “(vi) The extent to which the country  
14 has taken steps to become a party to and  
15 implements the Inter-American Convention  
16 Against Corruption.

17 “(vii) The extent to which the  
18 country—

19 “(I) applies transparent, non-  
20 discriminatory, and competitive proce-  
21 dures in government procurement  
22 equivalent to those contained in the  
23 Agreement on Government Procure-  
24 ment described in section 101(d)(17)

1 of the Uruguay Round Agreements  
2 Act; and

3 “(II) contributes to efforts in  
4 international fora to develop and im-  
5 plement international rules in trans-  
6 parency in government procurement.

7 “(C) ATPEA ORIGINATING GOOD.—

8 “(i) IN GENERAL.—The term  
9 ‘ATPEA originating good’ means a good  
10 that meets the rules of origin for a good  
11 set forth in chapter 4 of the NAFTA as  
12 implemented pursuant to United States  
13 law.

14 “(ii) APPLICATION OF CHAPTER 4.—  
15 In applying chapter 4 of the NAFTA with  
16 respect to an ATPEA beneficiary country  
17 for purposes of this subsection—

18 “(I) no country other than the  
19 United States and an ATPEA bene-  
20 ficiary country may be treated as  
21 being a party to the NAFTA;

22 “(II) any reference to trade be-  
23 tween the United States and Mexico  
24 shall be deemed to refer to trade be-

1                   tween the United States and an  
2                   ATPEA beneficiary country;

3                   “(III) any reference to a party  
4                   shall be deemed to refer to an  
5                   ATPEA beneficiary country or the  
6                   United States; and

7                   “(IV) any reference to parties  
8                   shall be deemed to refer to any com-  
9                   bination of ATPEA beneficiary coun-  
10                  tries or to the United States and one  
11                  or more ATPEA beneficiary countries  
12                  (or any combination thereof).

13                  “(D) TRANSITION PERIOD.—The term  
14                  ‘transition period’ means, with respect to an  
15                  ATPEA beneficiary country, the period that be-  
16                  gins on October 1, 2001, and ends on the ear-  
17                  lier of—

18                  “(i) September 30, 2005; or

19                  “(ii) the date on which the FTAA or  
20                  another free trade agreement that makes  
21                  substantial progress in achieving the nego-  
22                  tiating objectives set forth in section  
23                  108(b)(5) of Public Law 103–182 (19  
24                  U.S.C. 3317(b)(5)) enters into force with

1                   respect to the United States and the  
2                   ATPEA beneficiary country.

3                   “(E) ATPEA.—The term ‘ATPEA’ means  
4                   the Andean Trade Preference Expansion Act.

5                   “(F) FTAA.—The term ‘FTAA’ means  
6                   the Free Trade Area of the Americas.”.

7           (b) DETERMINATION REGARDING RETENTION OF  
8 DESIGNATION.—Section 203(e) of the Andean Trade  
9 Preference Act (19 U.S.C. 3202(e)) is amended—

10                   (1) in paragraph (1)—

11                           (A) by redesignating subparagraphs (A)  
12                           and (B) as clauses (i) and (ii), respectively;

13                           (B) by inserting “(A)” after “(1)”; and

14                           (C) by adding at the end the following:

15                   “(B) The President may, after the requirements of  
16 paragraph (2) have been met—

17                           “(i) withdraw or suspend the designation of any  
18                           country as an ATPEA beneficiary country; or

19                           “(ii) withdraw, suspend, or limit the application  
20                           of preferential treatment under section 204(b) (2)  
21                           and (3) to any article of any country,

22 if, after such designation, the President determines that,  
23 as a result of changed circumstances, the performance of  
24 such country is not satisfactory under the criteria set forth  
25 in section 204(b)(5)(B).”; and



1           (2) by adding after paragraph (2) the following  
2           new paragraph:

3           “(3) If preferential treatment under section 204(b)  
4           (2) and (3) is withdrawn, suspended, or limited with re-  
5           spect to an ATPEA beneficiary country, such country  
6           shall not be deemed to be a ‘party’ for the purposes of  
7           applying section 204(b)(5)(C) to imports of articles for  
8           which preferential treatment has been withdrawn, sus-  
9           pended, or limited with respect to such country.”.

10          (c) REPORTING REQUIREMENTS.—Section 203(f) of  
11          the Andean Trade Preference Act (19 U.S.C. 3202(f)) is  
12          amended to read as follows:

13          “(f) REPORTING REQUIREMENTS.—

14                 “(1) IN GENERAL.—Not later than December  
15                 31, 2002, and every 2 years thereafter during the  
16                 period this title is in effect, the United States Trade  
17                 Representative shall submit to Congress a report re-  
18                 garding the operation of this title, including—

19                         “(A) with respect to subsections (b) and  
20                         (c), the results of a general review of bene-  
21                         ficiary countries based on the considerations de-  
22                         scribed in such subsections; and

23                         “(B) the performance of each beneficiary  
24                         country or ATPEA beneficiary country, as the

1 case may be, under the criteria set forth in sec-  
 2 tion 204(b)(5)(B).

3 “(2) PUBLIC COMMENT.—Before submitting the  
 4 report described in paragraph (1), the United States  
 5 Trade Representative shall publish a notice in the  
 6 Federal Register requesting public comments on  
 7 whether beneficiary countries are meeting the cri-  
 8 teria listed in section 204(b)(5)(B).”.

9 (d) CONFORMING AMENDMENTS.—

10 (1) IN GENERAL.—

11 (A) Section 202 of the Andean Trade Pref-  
 12 erence Act (19 U.S.C. 3201) is amended by in-  
 13 serting “(or other preferential treatment)” after  
 14 “treatment”.

15 (B) Section 204(a)(1) of the Andean  
 16 Trade Preference Act (19 U.S.C. 3203(a)(1)) is  
 17 amended by inserting “(or otherwise provided  
 18 for)” after “eligibility”.

19 (2) DEFINITIONS.—Section 203(a) of the Ande-  
 20 an Trade Preference Act (19 U.S.C. 3202(a)) is  
 21 amended by adding at the end the following new  
 22 paragraphs:

23 “(4) The term “NAFTA” means the North  
 24 American Free Trade Agreement entered into be-

1       tween the United States, Mexico, and Canada on  
2       December 17, 1992.

3               “(5) The terms ‘WTO’ and ‘WTO member’  
4       have the meanings given those terms in section 2 of  
5       the Uruguay Round Agreements Act (19 U.S.C.  
6       3501).”.

7   **SEC. 4. TERMINATION.**

8       Section 208(b) of the Andean Trade Preference Act  
9       (19 U.S.C. 3206(b)) is amended to read as follows:

10       “(b) **TERMINATION OF DUTY-FREE TREATMENT.**—  
11       No duty-free treatment extended to beneficiary countries  
12       under this title shall remain in effect after September 30,  
13       2005.”.

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